

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1698 of 1981

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE MR. K.SREEDHARAN and
MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

KASTURBA STRI VIKASGRIH

Versus

PRESIDING OFFICER

Appearance:

MR BP TANNA for Petitioner

CORAM : THE CHIEF JUSTICE MR. K.SREEDHARAN and
MR.JUSTICE M.S.SHAH

Date of decision: 10/11/97

ORAL JUDGEMENT

Petitioner-Shri Kasturba Stri Vikasgrah, Jamnagar- had in their service 2nd respondent as a watchman since 29-10-1976 on the monthly pay of Rs.250/-. His services were terminated on 30-9-1978. Before terminating his services, no chargesheet was served on him or inquiry held. He was not paid notice pay or retrenchment compensation either. Consequently he had

raised industrial dispute. That dispute was referred to the Labour Court, Rajkot. The petitioner and 2nd respondent adduced evidence in support of their respective claims before the Industrial Court. On the basis of the evidence so recorded the Labour Court came to the conclusion that second respondent herein was a workman under the petitioner as defined under Sec. 2(s) of the Industrial Disputes Act, 1947 (hereinafter referred to as the ID Act); that his services were terminated for no justifiable cause and consequently entitled to reinstatement in service. Pursuant to that finding petitioner was directed to reinstate 2nd respondent in service with continuity of service and full back wages from October 1, 1978. The award passed by the Labour Court is under challenge in this petition.

Learned Counsel representing the petitioner contended that the petitioner is not an "industry" as it is a voluntary charitable institution and consequently the award directing to reinstate 2nd respondent is unsustainable.

The nature of the activities of the petitioner institution was considered by the Labour Court on the basis of the evidence led by the parties. The Labour Court examined the evidence in the light of principle annunciated by the Apex Court in Bangalore Water Supply & Sewerage Board Vs. A.Rajappa & others, 1978 (1) LLJ 349 and came to the conclusion that the petitioner institution is an industry as defined under the ID Act. The findings arrived at by the Labour Court on appreciation of evidence on record can never be considered to be based on "no evidence" or perverse. On the facts and circumstances of this case we do not find any reason to differ from the conclusion reached by the Labour Court.

The petitioner institution has no case that any charge sheet was served on 2nd respondent and his services were terminated pursuant to an inquiry into the misconduct committed by him. No notice pay was given and no retrenchment compensation was paid when the services of 2nd respondent were terminated on September 13, 1978. This means that the services of 2nd respondent were dispensed with in contravention of provisions contained in the ID Act. The Labour Court was, therefore, perfectly justified in ordering reinstatement of workman. When reinstatement was ordered, back wages can be denied only if the petitioner has substantive reasonable ground for denying the same. No such ground or reason has been alleged or proved. In the circumstances, we do not find

any ground to interfere with the award passed by the Labour Court in exercise of the powers under Articles 226 and 227 of the Constitution.

Special Civil Application fails and is accordingly dismissed. Rule is discharged with no order as to costs.

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